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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO.

09/840,584 04/23/2001 Kazutaka Inukai SEL 254 3778

7590 07/30/2003

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ART UNIT PAPER NUMBER

2823

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

				ahr	
		Application No.	Applicant(s)		
	·	09/840,584	INUKAI, KAZUTAK	А	
U	Office Action Summary	Examiner	Art Unit		
		W. David Coleman	2823		
Period	The MAILING DATE of this communication app for Reply	pears on the cover sheet with the o	correspondence add	lress	
TH - E a - If - If - A	EMORTENED STATUTORY PERIOD FOR REPLY E MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.13 fer SIX (6) MONTHS from the mailing date of this communication. The period for reply specified above is less than thirty (30) days, a reply NO period for reply is specified above, the maximum statutory period wailure to reply within the set or extended period for reply will, by statute, ny reply received by the Office later than three months after the mailing arned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be tilly within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	mely filed /s will be considered timely. the mailing date of this cor ED (35 U.S.C. § 133).		
1)[Responsive to communication(s) filed on 09 J	<u>lune 2003</u> .			
2a)[☑ This action is FINAL . 2b)☐ Th	is action is non-final.			
3)[Dispos	Since this application is in condition for allowationsed in accordance with the practice under sition of Claims			e merits is	
4)[☑ Claim(s) <u>1-37,61-68 and 76-96</u> is/are pending	in the application.			
	4a) Of the above claim(s) 1-9,19-37,61-68 and 76-96 is/are withdrawn from consideration.				
5)[5) Claim(s) is/are allowed.				
6)[2	6)⊠ Claim(s) <u>10-17</u> is/are rejected.				
7)[Claim(s) is/are objected to.				
8)[Claim(s) are subject to restriction and/o	r election requirement.			
Applic	ation Papers				
9)[\square The specification is objected to by the Examine	r.			
10)[☐ The drawing(s) filed on is/are: a)☐ accep	oted or b)⊡ objected to by the Exa	miner.		
	Applicant may not request that any objection to the				
11)[The proposed drawing correction filed on		oved by the Examine	r.	
\	If approved, corrected drawings are required in rep	•			
12)L	☐ The oath or declaration is objected to by the Ex	aminer.			
	y under 35 U.S.C. §§ 119 and 120				
13)[Acknowledgment is made of a claim for foreigr	n priority under 35 U.S.C. § 119(a)-(d) or (f).		
	a)⊠ All b)□ Some * c)□ None of:				
	1. Certified copies of the priority document	s have been received.			
	2. Certified copies of the priority document	s have been received in Applicat	ion No		
	 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 				
14)	Acknowledgment is made of a claim for domesti	c priority under 35 U.S.C. § 119	e) (to a provisional	application).	
15)[a) ☐ The translation of the foreign language provisional application has been received. 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. 				
Attachm	-				
2) 🔲 N	otice of References Cited (PTO-892) otice of Draftsperson's Patent Drawing Review (PTO-948) ıformation Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u>	5) Notice of Informal	y (PTO-413) Paper No(s Patent Application (PTC		
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DETAILED ACTION

Response to Arguments

- 1. Applicant's arguments filed June 9, 2003 have been fully considered but they are not persuasive.
- 2. Applicant contends that the amendment of claim 10 will remove the double patenting rejection by merely stating that the first EL driver and the second EL driver are electrically connected with said switching circuit.
- However, the amendment has not overcome the double patenting rejection because claim 1 of U.S. Patent Application Publication 2002/0047555 A1 includes the structure as claimed. Applicant is directed to claim 1 where the term "wherein one of said pair of EL driver TFTs is controlled by the other of said pair of switching TFTs". Please note that the term control does not preclude control via electrical wiring as well as the structure of FIG. 3, therefore the double patenting rejection of claim 1 is maintained.

Drawings

4. The objection to the drawings have been withdrawn.

Double Patenting

- 5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
- 6. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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- 7. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
- 8. Claim 10 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of copending Application No. 09/747,646. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is well known that an eliminating TFT is equivalent to an erasure TFT.
- 9. This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

- 10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- 11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. David Coleman whose telephone number is 703-305-0004. The examiner can normally be reached on 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 703-306-2794. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7721 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

W. David Coleman Primary Examiner

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WDC July 28, 2003